IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.176 OF 2006

Kumud Shaligram Wankhede
and another Petitioners

versus

State of Maharashtra & others Respondents

Mr.R.K.Mendadkar for petitioners.

Mr.V.A.Gangal, Sr.Counsel with Mrs.M.P.Thakur, AGP for respondents 1 and 2.

CORAM : F.I.REBELLO AND
R.V.MORE, JJ.

DATE : 22nd January 2007

PC :

1. The petitioners herein are sisters, claimed as belonging to Thakur Tribe, a notified Scheduled Tribe. Their Tribe claim, however, has been invalidated by the Tribe Scrutiny Committee. Hence, the present petition.

2. After hearing the petition, on behalf of the petitioners the learned counsel submits that the Vigilance Cell had conducted an enquiry and submitted the Vigilance Report. That report was

considered by the Committee. However, the report was not made available to the petitioners. Considering the law laid down by the Supreme Court, one of the important criteria for deciding as to whether a person is belonging to a notified Scheduled Tribe or Caste, apart from the documentary evidence which has to be considered are traits and characteristics of the Tribe. A vigilance enquiry to that extent is material and has to be considered by the committee. In this case, though the committee considered the information received by the vigilance cell, yet, the same was not made available to the petitioners to submit their say on the same. Considering the same, in our opinion, the orders suffer from illegality and accordingly it is liable to be quashed and set aside.

3. We make it clear that we have not decided any of the issues which arise in this petition. However, considering the matter, the matter is remitted back to the Committee to consider all the questions bearing in mind the recent judgement of Hon’ble Supreme Court in the matter of Thakur Scheduled Tribe. The petitioners to appear before the Committee on 5th February 2007 at 11.00 a.m.. The Committee thereafter shall

make available the Report of Vigilance as also of the Research Officer to the petitioners and give them an opportunity to put forth their stand and then pass appropriate orders not later than twelve weeks from that day. Rule to that extent is made absolute. No order as to costs.

(R.V.MORE, J.) (F.I.REBELLO, J.)